

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

J & J SPORTS PRODUCTIONS, INC.

07 CV 8759

- AGAINST -

NUESTRO BAR INCORPORATED
d/b/a NUESTRO BAR
and LUIS PENA
and HECTOR LIMAS CASTILLO
Defend

AMENDED
AFFIDAVIT FOR JUDGMENT
BY DEFAULT

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss:

Paul J. Hooten, being duly sworn, deposes and says:

I am a member of the Bar of this Court and am associated with the firm of Paul J. Hooten & Associates, attorney for plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.

1. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of plaintiffs application for the entry of a default judgment against defendant.

2. This is an action to recover the unauthorized exhibition of the telecast of the February 25, 2006, boxing match between Fernando Vargas and Shane Mosley by the defendant.

3. This action was commenced on October 10, 2007 by the filing of the summons and complaint. A copy of the summons and complaint was served on the defendant Nuestro Bar Incorporated d/b/a Nuestro Bar (See Exhibit "A") on November 15, 2007 by service on Donna

Christie, Clerk Authorized to Accept in the office of the Secretary of State of New York. The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired.

4. Said defendants are not infants or incompetents. Pursuant to the affidavit of service on file with this Court, the defendants are not presently in the military services of the United States.

5. The defendants have not answered or otherwise moved with respect to the complaint, and the time for the defendants to answer or otherwise move has been extended as of this date.

6. Attached hereto as Exhibit "B" is the Clerk's Certificate of Default.

7. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. Section 1331, which states that the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

8. Upon information and belief, venue is proper in this court because, inter alia, all defendants reside within the State of New York (28 U.S.C. § 1391(b) and 28 U.S.C. §112(b)).

9. This Court has personal jurisdiction over the parties in this action as a result of the defendants' wrongful acts hereinafter complained of which violated plaintiff's rights as distributor of the transmission signal of the fight as hereinafter set forth as length. The defendants' wrongful acts consisted of the interception or tortious conversion of said property of plaintiff within the control of the plaintiff in the State of New York.

10. This action seeks judgment in the amount of \$20,000.00, plus interest at 9% from February 25, 2006, amounting to \$3,900.00, plus costs and disbursement of this action in the amount of \$470.00, amounting in all to \$24,370.00. Of which no amount has been paid towards this judgment.

11. There is no need to prove malice or actual knowledge in order to establish a willful

violation; constructive knowledge is sufficient. See Fitzgerald, 807F.2d at 1115; Cable/Home, 902 F 2d at 851. In the instant case, the defendants actual knowledge that their acts were wrongful should be sufficient to demonstrate that their acts were willful.

12. Therefore, based on the above and inquest hearing would not be necessary.

WHEREFORE, plaintiff requests the entry of Default and the entry of the annexed Judgment against defendant.

Dated: Mt. Sinai, New York
August 1, 2008

/s/ Paul J. Hooten
Paul J. Hooten (PJH9510)

Sworn to before me this
1 day of August, 2008

/s/ Cheryl E. Lorefice
Notary Public

Cheryl E. Lorefice
Notary Public, State of New York
No. 4999823
Qualified in Suffolk County
Commission Expires August 3, 2010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
J & J SPORTS PRODUCTONS, INC.

Plaintiff CIVIL NO. 07-CV-8759

-AGAINST-

NUESTRO BAR INC.
d/b/a NUESTRO BAR
and LUIS M PENA
and HECTOR LIMS CASTILLO

Defendant STATEMENT OF DAMAGES

-----X

Amount of judgment \$20,000.00
\$20,000.00

Interest at 9% from February 25, 2006 through August 1, 2008 \$ 3,900.00

Costs and Disbursements:

Clerk's fee \$... 350.00
Process Server fee for service \$... 120.00

Total as of August, 2008..... \$24,370.00

